

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

Bail Appl..No. 7188 of 2007()

CRIME NO.320/2006 OF CHENGANNUR POLICE STATION, ALAPPUZHA

: PETITIONER/ACCUSED

ANIL KUMAR, ANIL BHAVAN,
KODANCHIRA MURI, PULIYUR VILLAGE.

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 23/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.7188 of 2007

Dated this the 23rd day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the husband of the deceased. He faces allegations for offences punishable under Section 498 A I.P.C and 306 I.P.C. The spouses were allegedly in courtship for a period of a decade. They married thereafter. After the marriage, strain developed in the relationship between them, evidently consequent to the strain in the relationship between the members of the 2 families. The petitioner was employed abroad. The lady was employed as an Ayurvedic Physician in a hospital at Trivandrum. The wife of the petitioner committed suicide by hanging on 01.05.06. The crime was registered under Section 174 Cr.P.C. In the course of investigation, allegations under Section 498 A and 306 I.P.C have been raised against the petitioner.

2. The learned Public Prosecutor submits that the available indications clearly show matrimonial cruelty of the culpable variety emanating from the petitioner towards the deceased. He did not allow her to work. He was not prepared to tolerate her game for work. He insisted that she must go and live with his parents notwithstanding her grievance that the atmosphere there was not congenial to harmonious living. He raised suspicions about her behaviour and conduct. The last straw on the camel's back, it would appear, was the phone call from

the petitioner to the employer of the deceased alleging improper behaviour on the part of his wife and also a request that she may not be permitted to work there without his consent. When the lady after a short holiday returned to her place of work, her employer conveyed information which he received from the petitioner to her and told her that the employer will not be able to continue to engage her unless the petitioner consented. The deceased conveyed information to her father of the problem at her workplace. Before the father reached her workplace, she allegedly committed suicide.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. In any view of the matter, it cannot be assumed that the petitioner was guilty of matrimonial cruelty or of abetment to suicide even of the deemed variety under Section 113 A of the Evidence Act.

4. I have considered all the relevant circumstances. I have perused the case diary. Investigation is now being conducted by the CBCID. The learned Public Prosecutor has drawn my attention to certain specific facts. Diary maintained by the deceased indicates the alleged cruelty. There is an internet advertisement made by the petitioner describing himself as a divorced husband and soliciting offers for a second marriage. There is statement of the

employer of the deceased that the petitioner had contacted him and complained to him about the conduct of the deceased and had wanted him not to continue the employee, the deceased.

5. At this early stage of investigation, I shall carefully avoid any detailed discussion about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that having considered all the relevant inputs and having perused the case diary, I am of the opinion that there are no features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is an eminently fit case where the petitioner must be directed to surrender before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course.

6. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-

